7/2/03

MS NON-FEE AMENDMENT
PATENT
0508-1037

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of:

Jeannine CHOPPIN et al.

Appl. No.: 09/980,523

Filed: April 29, 2002

Conf.: 5483

Group: 1648

Examiner: Ali Reza Salima

POLYEPITOPIC PROTEIN FRAGMENTS OF THE E6 AND E7 PROTEINS OF HPV, THEIR PRODUCTION AND THEIR USE PARTICULARLY IN VACCINATION

RESPONSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

June 30, 2003

Sir:

Responsive to the restriction requirement set forth in the outstanding Official Action of April 7, 2003 and the communication (PTO-90C) mailed on June 19, 2003, Applicants hereby provisionally elect Group I, claims 1-8 drawn to polyepitopic fragments of E6, with traverse.

Responsive to the requirement for an election of a sequence, Applicants provisionally elect SEQ ID NO: 6 of claim 6, with traverse.

Responsive to the election of species requirement, Applicants provisionally elect the substitution mechanism. It is

believed that claims 1, 2, 3, 4 and 6 read on the provisionally elected species.

Applicants believe that the Official Action fails to satisfy its burden in showing a lack of unity. The Examiner's attention is respectfully directed to MPEP §1893.03(d) that provides when imposing a lack of unity of invention requirement, the Patent Office Action must provide the following:

1) a list of the different groups of claims, and

2) an explanation as to why each group lacks unity with each other group (i.e., why there is no single general inventive concept) specifically describing the unique special technical feature in each group.

While the Official Action imposes a ten-way restriction requirement, applicants believe that the Official Action fails to provide an explanation as to why each group lacks unity with each other group.

Applicants further believe that the Official Action fails to show the unique special technical feature in each group. Indeed, a group of inventions is considered linked to form a single general inventive concept where there is a technical relationship among the inventions that involves at least one common or corresponding special technical feature. The expression special

technical features is defined as meaning those technical features that define the contribution which each claimed invention, considered as a whole, makes over the prior art.

While the Official Action does cite to Muller et al, the Official Action is completely silent as to why polyepitopic fragments of E6 and E7 cannot be examined together in the same patent application. In fact, it is believed that Muller et al fails to provide any explanation or reason as to why any of the groups lack unity. As a result, it is believed that the Official Action fails to satisfy its burden in showing a proper lack of unity between the claims.

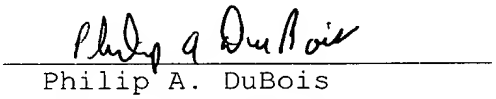
Applicants traverse the restriction to a single amino acid sequence. As the Examiner is aware, the United States Patent and Trademark Office published its policy for the examination of patent applications containing sequence listings in the Official Gazette, 1192 O.G. 68 (November 19th, 1996). Applicants note that in establishing the new policy, the Commissioner has partially waived the requirements of 37 CFR 1.41 and will permit a reasonable number of sequences to be claimed and examined in a single application. Under this policy, up to 10 sequences may be examined in a single application without restriction.

Thus, it is believed that the restriction to a single sequence is improper and Applicants respectfully request the examination of all the sequences found in claims 1-8.

In light of the above discussion, it is believed to be apparent that the restriction requirement set forth in the Official Action of April 7, 2003 is improper and must be withdrawn. Favorable action on the merits of claims 1-24 in their full scope is therefore respectfully requested.

Respectfully submitted,

YOUNG & THOMPSON

By 

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